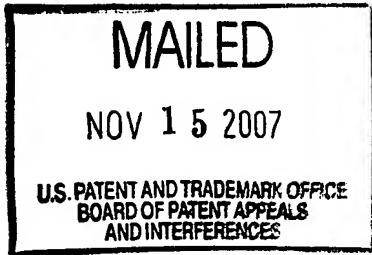


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte STEVEN L. FLICKINGER,  
WILLIAM L. HERB, WILLIAM E. VEITH,  
HAROLD W. KERLIN, EDWARD J. BRIGHT  
and DENNIS L. KEMMICK

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Application 10/706,748

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on November 3, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Examiner's Answer was mailed May 29, 2007. Page 3 of the Answer states:

Claims 26-31, 34-37, 39-40, 42 and 43 are rejected under 35 U.S.C. § 103(a). This rejection is set forth in prior office mailed on 2/22/2006 [Final Rejection] and is appealed below.

However, it is noted that the only two rejections appearing in the Final

Rejection are:

Claims 26, 38-40<sup>1</sup> and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poplawski (5879173) in view of Smith and further in view of Burgmann [page 3]; and

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poplawski in view of Smith and Burgmann and further in view of Hall [page 5].

Clarification is requested regarding the status of claims 27-30 and 34-37.

In addition, a Reply Brief was filed on May 14, 2007 in response to the Examiner's Answer mailed March 9, 2007. However, there is no indication in the record regarding whether or not the examiner has considered the Reply Brief. Section 41.43 of the Code of Federal Regulations (2006) states:

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary

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<sup>1</sup> Since the Final Rejection was mailed, claim 38 has been cancelled pursuant to the Amendment filed November 2, 2006.

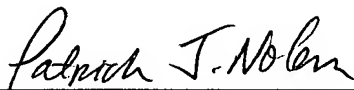
examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issues raised in the reply brief.

Accordingly, it is

ORDERED that the application is returned to the examiner:

- 1) for clarification regarding the status of claims 27-30 and 34-37;
- 2) for proper response to the Reply Brief filed May 14, 2007;
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
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Deputy Chief Appeals Administrator  
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